

*Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554*

In the Matter of )  
)  
Conditions Proposed by SBC Communications, Inc. )  
And Ameritech Corporation for Their Pending )  
Application to Transfer Control )

CC Docket No. 98-141

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

To: The Commission

**COMMENTS OF THE  
PERSONAL COMMUNICATIONS INDUSTRY ASSOCIATION**

Pursuant to the *Public Notices* released July 1 and July 7, 1999,<sup>1</sup> the Personal Communications Industry Association ("PCIA")<sup>2</sup> hereby submits its comments with respect to the proposed conditions on the pending SBC-Ameritech application to transfer control.

Fair interconnection arrangements between all telecommunications carriers is a keystone to ensuring that the promise of the Telecommunications Act of 1996 is realized. Glaringly absent from

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<sup>1</sup> *Pleading Cycle Established for Comments on Conditions Proposed by SBC Communications Inc. And Ameritech Corporation for their Pending Application to Transfer Control*, CC Docket No. 98-141, DA 99-1305 (July 1, 1999); *Order Granting Motions Filed by ALTS and AT&T et al. Extending Deadline for Filing Comments on SBC's and Ameritech's Submitted Proposed Conditions Regarding Their Pending Applications to Transfer Licenses and Authorizations to July 19*, CC Docket No. 98-141, DA 99-1342 (July 7, 1999).

<sup>2</sup> PCIA is the international trade association created to represent the interests of the commercial and private mobile radio service communications industries. PCIA's Federation of Councils includes: the Paging and Messaging Alliance, the PCS Alliance, the Wireless Broadband Alliance, the Mobile Wireless Communications Alliance, the Site Owners and Managers Association, and the Private System Users Alliance. In addition, as the FCC-appointed frequency coordinator for the 450-512 MHz frequency bands in the Business Radio Service, the 800 and 900 MHz Business Pools, the 800 MHz General Category frequencies for Business Eligibles and conventional SMR systems, and the 929 MHz paging frequencies, PCIA represents and serves the interests of tens of thousands of wireless licensees.

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the proposed merger conditions is any mention of compliance with existing Commission rules regarding interconnection with wireless carriers. A number of conditions have been suggested in this proceeding that would ensure that the new merged entity meets its obligations under the 1996 Act. Those conditions should be adopted before the merger is approved.

Specifically, the Commission should condition approval of SBC's acquisition of Ameritech on SBC entering into agreements with paging carriers that are no less favorable to agreements already reached by Ameritech and paging carriers in each of SBC's existing territories. Further, SBC must be directed to allow paging carriers, large and small, to enter into those same agreements, as amended, under Section 252(i). Also, the Commission should condition any acquisition by SBC on SBC's cessation of billing paging carriers for facilities and the immediate refund of all monies for facilities paid since the effective date of the Commission's Order in 96-98 requiring ILECs to cease charging.

One of Congress' and the Commission's primary public interest goals embodied in the passage and implementation of the 1996 Act is to provide opportunities for fair interconnection for all telecommunications carriers, including paging carriers, in order to enhance competition in the local telecommunications marketplace and to ensure that American consumers have as broad a range of choices as possible. PCIA previously filed comments regarding the interconnection concerns of its paging members and suggested that the merger be conditioned upon the parties' commitment to comply with their interconnection obligations to paging carriers.

As the Commission is aware, Ameritech has entered into interconnection agreements with Paging Network Inc. ("PageNet") which have been reviewed and approved by various state public utility commissions pursuant to Sections 251 and 252 of the 1996 Act.<sup>3</sup> PCIA has stated, and

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<sup>3</sup> PageNet and Ameritech reached agreement on March 11, 1999. These agreements were filed in and approved by the PUCs in the following states: Illinois,

(continued...)

continues to believe, that these types of agreements are “a catalyst to a new chapter in interconnection negotiations. . .” and expects “that this positive trend will continue.”<sup>4</sup> The significance of the Ameritech-PageNet agreements lie not in the substantive provisions, but in the fact that these carriers were able to arrive at mutually agreeable terms through private negotiation with Ameritech acknowledging the Commission’s rules regarding LEC-CMRS interconnection.<sup>5</sup> It is also important to note that PCIA’s member companies are committed to continuing good faith negotiations with these parties and all ILECs.<sup>6</sup> As PageNet has described in this proceeding, however, SBC has not approached paging interconnection with similar good faith:

It continues to be SBC’s position that it does not agree with the Commission’s rules that require SBC to deliver its local traffic to PageNet without charge, and that it does not have to comply. Despite the Commission’s letter directly to SBC, according to SBC, PageNet must pay for 100% of the facilities used to deliver SBC’s local traffic to PageNet until such time as there is an interconnection agreement between the two companies, not just filed with the various state commissions, but approved by each.

And, as SBC well knows, PageNet (and other paging carriers) are unable to reach reasonable agreements with SBC because of SBC’s unlawful insistence that paging carriers give up their right to any compensation as a condition of the agreement. At PageNet’s last in-person meeting with SBC in March, SBC informed PageNet that it “remains SBC’s policy” that it will not pay compensation to paging carriers for the paging carrier’s termination of local calls. At that meeting, PageNet

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<sup>3</sup>(...continued)

Indiana, Michigan, Ohio and Wisconsin.

<sup>4</sup> PCIA President Jay Kitchen, press statements regarding interconnection, Aug. 12, 1998; June 21, 1999.

<sup>5</sup> Ameritech has also provided the Ameritech-PageNet agreements to at least one other carrier, AirTouch Paging, in these five states. This is a significant development because it shows that Ameritech is beginning to comply with the Commission’s interconnection rules.

<sup>6</sup> Indeed, AirTouch Paging recently entered into an interconnection agreement with BellSouth Telecommunications. Also, Metrocall has opted into the PageNet-Bell Atlantic interconnection agreements pursuant to section 252(i).

asked for immediate reconsideration of those positions, given their blanket unlawfulness, and has done so again both in oral communications and written communications. At its last telephonic communication, with SBC last month, PageNet was informed that it is still SBC's policy not to compensate paging carriers. Of course, according to SBC representatives, SBC is "continuing to evaluate this policy." This stone-walling suggests SBC is unwilling to recognize the rights of other carriers under the Act, as well as SBC's own obligations in that regard, even though it is among the first to demand that its own potential rights under the Act be bestowed, *e.g.* even where it has not met the Section 271 "checklist" which serves as a precondition to those rights.

It is worth noting that SBC's interconnection agreements with other wireless carriers, such as those owned by SBC, do provide for termination compensation to the wireless carrier, regardless of whether the call is a voice call or a short messaging call identical to those terminated by PageNet and other paging carriers. Thus, SBC's current "policy" with respect to termination compensation to paging carriers not only violates clear and unequivocal FCC rules, and Section 251(b)(5) of the 1996 Act, but unlawfully discriminates in favor of its own wireless affiliates.<sup>7</sup>

The charges and practices enunciated by PageNet are in direct conflict with the 1996 Act and the Commission's rules, orders and related pronouncements.<sup>8</sup> The instant proceeding, in which the parties seek to merge and therefore expand their presence into new markets, is an appropriate forum in which to reaffirm that the merged entity must comply with its interconnection obligations to all telecommunications co-carriers, regardless of technology.

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<sup>7</sup> *Written Comments of Judith St. Ledger-Roty on Behalf of Paging Network, Inc., Public Forum on SBC Communications, Inc., and Ameritech Corporation, Applications for Transfer of Control*, pages 3-4. CC Docket No. 98-141, (submitted May 7, 1999).

<sup>8</sup> *See, e.g.*, 47 U.S.C. § 251(b)(5); 47 C.F.R. §§ 20.11 and 51.703; *Implementation of the Local Competition Provisions in the Telecommunications Act, First Report and Order*, 11 FCC Rcd. 15,499 (1996); *AT&T Corp. v. Iowa Utilities Board*, 525 U.S. \_\_\_, 119 S. Ct. 721 (1999); Letter from Regina Keeney, Chief, Common Carrier Bureau, to Ms. Cathleen A. Massey, *et. al.*, dated March 3, 1997; *Public Notice, Summary of Currently Effective Commission Rules for Interconnection Requests by Providers of Commercial Mobile Radio Service*, FCC 97-344, released Sept. 30, 1997; Letter from A. Richard Metzger, Jr., Chief Common Carrier Bureau, to Mr. Keith Davis, *et. al.*, dated December 30, 1997.

PCIA joins PageNet in requesting that the Commission condition approval of SBC's acquisition of Ameritech on SBC entering into agreements with paging carriers that are no less favorable to the Ameritech agreements, as amended, with PageNet in each of SBC's existing territories. SBC must also be directed to allow paging carriers, large and small, to enter into those same agreements, as amended, under Section 252(i). The Commission should also condition any acquisition by SBC on SBC's cessation of billing paging carriers for facilities, and the immediate refund of all monies for facilities, paid since the Commission's Order in 96-98 requiring it to cease charging became effective.

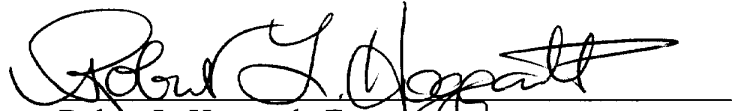
PCIA also suggests that sections 12 ("Alternative Dispute Resolution"), 13 ("Most-Favored-Nation Provisions for Out-of-Region and In-region Arrangements") and 14 ("Regional Interconnection and Resale Agreements") of the proposal include wireless carriers and wireless interconnection. It is vital to the FCC's consideration of this merger that the new entity complies with all of its interconnection obligations, not just to CLECs (as is solely mentioned in the document), but to wireless telecommunications carriers as well. It is important that the final document articulate the importance of SBC's compliance with its existing obligations and responsibilities. Consequently, PCIA respectfully requests that the Commission add language to its final order so as to condition the grant of the applications on strict compliance with its rules pertaining to LEC-CMRS interconnection obligations.

CONCLUSION:

PCIA respectfully requests that this Commission condition any grant of the proposed transfer of control application consistent with the statements set forth above.

Respectfully submitted,

THE PERSONAL COMMUNICATIONS  
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A handwritten signature in black ink, appearing to read "Robert L. Hoggarth", written over a horizontal line.

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I, Jabari Simmons, hereby certify that the foregoing Comments of the Personal Communications Industry Association was served by first class mail, postage pre-paid, on the following parties this 19th day of July, 1999.

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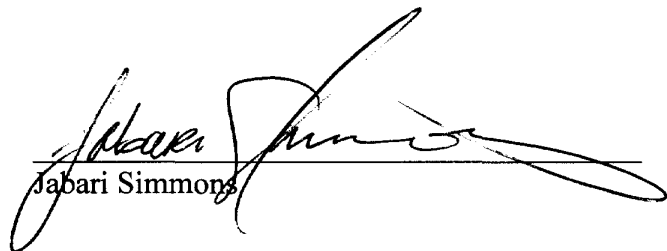
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